

Order

Michigan Supreme Court
Lansing, Michigan

May 4, 2018

Stephen J. Markman,
Chief Justice

156746

Brian K. Zahra
Bridget M. McCormack
David F. Viviano
Richard H. Bernstein
Kurtis T. Wilder
Elizabeth T. Clement,
Justices

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellant,

v

SC: 156746
COA: 331499
Jackson CC: 15-004596-FC

DAWN MARIE DIXON-BEY,
Defendant-Appellee.

On order of the Court, the application for leave to appeal the September 26, 2017 judgment of the Court of Appeals is considered. We direct the Clerk to schedule oral argument on whether to grant the application or take other action. MCR 7.305(H)(1).

The appellant shall file a supplemental brief within 42 days of the date of this order, addressing: (1) to what extent the sentencing guidelines should be considered to determine whether the trial court abused its discretion in applying the principle of proportionality under *People v Steanhouse*, 500 Mich 453 (2017); and (2) whether, when a jury convicted the defendant of second-degree murder, the trial court abused its discretion in applying the principle of proportionality if it either (a) sentenced the defendant according to an independent finding that she committed first-degree murder; or (b) departed upward from the sentencing guidelines for second-degree murder based on facts established by a preponderance of the evidence that the jury did not find were established beyond a reasonable doubt. See MCL 777.36(2)(a); *People v Ewing (After Remand)*, 435 Mich 443 (1990); *People v Milbourn*, 435 Mich 630, 654 (1990).

In addition to the brief, the appellant shall electronically file an appendix conforming to MCR 7.312(D)(2). In the brief, citations to the record must provide the appendix page numbers as required by MCR 7.312(B)(1). The appellee shall file a supplemental brief within 21 days of being served with the appellant's brief. The appellee shall also electronically file an appendix, or in the alternative, stipulate to the use of the appendix filed by the appellant. A reply, if any, must be filed by the appellant

within 14 days of being served with the appellee's brief. The parties should not submit mere restatements of their application papers.

We further direct the Clerk to schedule the oral argument in this case for the same future session of this Court when it will hear oral argument in *People v Beck* (Docket No. 152934).

The Prosecuting Attorneys Association of Michigan and the Criminal Defense Attorneys of Michigan are invited to file briefs amicus curiae. Other persons or groups interested in the determination of the issues presented in this case may move the Court for permission to file briefs amicus curiae.



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I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

May 4, 2018

A handwritten signature in black ink, appearing to read "Larry S. Royster", is written over a horizontal line.

Clerk